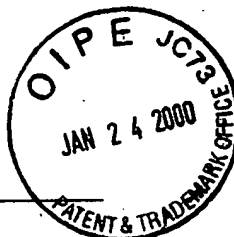


Attorney's Docket No. 3116-1763



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**RECEIVED**

FEB 01 2000

Patent application

of \_\_\_\_\_  
Inventor(s)

for \_\_\_\_\_  
Title of invention

the specification of which is being transmitted herewith

OR

In re application of: Curtiss et al.

Serial No.: 09 / 120,970

Group No.: 1641

Filed: July 22, 1998

Examiner:

For: RECOMBINANT BACTERIAL VACCINE SYSTEM WITH ENVIRONMENTALLY  
LIMITED VIABILITY

Assistant Commissioner for Patents  
Washington, D.C. 20231

**INFORMATION DISCLOSURE STATEMENT**

**CERTIFICATION UNDER 37 CFR 1.8(a) and 1.10**

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

☒ deposited with the United States Postal Service in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231

37 CFR 1.8(a)

37 CFR 1.10

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_

**TRANSMISSION**

☐ transmitted by facsimile to the Patent and Trademark Office.

Date: January 20, 2000

Signature

Elie H. Gendloff

(type or print name of person certifying)

NOTE: "Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section." 37 CFR 1.56(a).

"Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) each inventor named in the application;
- (2) each attorney or agent who prepares or prosecutes the application; and
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application." 37 CFR 1.56(c).

NOTE: The "duty as described in § 1.56 will be met so long as the information in question was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b) - (d) and 1.98 before issuance of the patent." Notice of January 9, 1992, 1135 O.G. 13 -25 at 17.

WARNING: "No information disclosure statement may be filed in a provisional application." 37 CFR § 1.51(b).

### List of Sections Forming Part of This Information Disclosure Statement

The following sections are being submitted for this Information Disclosure Statement:

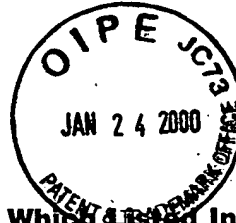
(check sections forming a part of this statement: discard unused sections  
and number pages consecutively)

- 1. ☐ Preliminary Statements
- 2. ☒ FORM PTO - 1449 (Modified)
- 3. ☐ Statement as to Information Not Found in Patents or Publications
- 4. ☒ Identification of Prior Application in Which Listed Information Was Already Cited  
and for Which No Copies Are Submitted or Need Be Submitted
- 5. ☒ Cumulative Patents or Publications
- 6. ☒ Copies of Listed Information Items Accompanying This Statement
- 7. ☐ Concise Explanation of Non-English Language Listed Information Items
  - 7A. ☐ EPO Search Report
  - 7B. ☐ English Language Version of EPO Search Report
- 8. ☐ Translation(s) of Non-English Language Documents
- 9. ☐ Concise Explanation of English Language Listed Information Items (Optional)
- 10. ☒ Identification of Person(s) Making This Information Disclosure Statement

(complete the following, if appropriate)

Sections 2, 4, 6 & 10, respectively, have been continued on ADDED PAGE(S).

NOTE: "Once the minimum requirements are met, the examiner has an obligation to consider the information."  
Notice of April 20, 1992 (1138 O.G. 37-41, 37).



**Section 4. Identification of Prior Application in Which Listed Information Was Already Cited and for Which No Copies Are Submitted or Need Be Submitted**

**NOTE:** "A copy of any patent, publication or other information listed in an information disclosure statement is not required to be provided if it was previously cited by or submitted to the Office in a prior application, provided that the prior application is properly identified in the statement and relied upon for an earlier filing date under 35 U.S.C. 120." 37 C.F.R. 1.98(d).

**WARNING:** "This exception to the requirement for copies of information does not apply to information which was cited in an international application under the Patent Cooperation Treaty." Notice of April 20, 1992 (1138 O.G. 37-41, 38).

**WARNING:** "Information which is cited or submitted to the Office in the parent application of a file wrapper continuing application under 37 C.F.R. 1.62 will be part of the file before the examiner and need not be resubmitted in the continuing application. Likewise, the examiner will consider information cited or submitted to the Office in a parent application when examining a continuing application and thus this information need not be resubmitted unless applicant desires the information to be printed on the patent." Notice of April 20, 1992 (1138 O.G. 37-41, 37).

**WARNING:** While a copy of a non-English language item of information need not be submitted, if it was previously submitted to, or cited by, the Office in a prior application, provided it is properly identified in this statement and this application relies on that earlier filing date under 35 U.S.C. 120, nevertheless, the requirement in § 1.98(a)(3) for a concise explanation of non-English language information would not be satisfied by a statement that a reference was cited in the prosecution of a parent application. The concise explanation must explain the relevance, as presently understood by the person designated in § 1.56(c) most knowledgeable about the content of the information. Notice of January 9, 1992, 1135 O.G. 13-25, at 20.

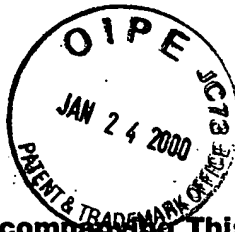
This application relies, under 35 U.S.C. 120, on the earlier filing date of prior application SN.: 08 / 473,789 , filed on June 7, 1995 (date).

(complete the following, if applicable)

☐ This application also relies, under 35 U.S.C. 120, on the earlier filing date of prior application SN.: 0 / , filed on \_\_\_\_\_ (date).

The following references were submitted to, and/or cited by, the Office in the prior application(s) and, therefore, are not required to be provided in this application:

See attached P.T.O. Form 1449



## Section 6. Copies of Listed Information Items Accompanying This Statement

NOTE: 37 C.F.R. 1.98(a)(2) requires that any information disclosure statement filed under § 1.97 shall include: "A legible copy of: (i) Each U.S. and foreign patent; (ii) Each publication or that portion which caused it to be listed; and (iii) All other information or that portion which caused it to be listed, except that no copy of a U.S. patent application need be included . . . "

NOTE: The wording in § 1.98(a)(2)(iii) makes it clear that the requirement to submit a copy of each item of information listed in an information disclosure statement does not apply to the citation of a U.S. patent application. Notice of January 9, 1992, 1135 O.G. 13-25, at 14.

Legible copies of all items listed in Forms PTO/SB/08A and 08B (formerly Form PTO-1449) accompany this information statement.

(complete the following, if applicable)

- ☒ Exception(s) to above:
  - ☒ Items in prior application, from which an earlier filing date is claimed for this application, as identified in Section 4.
  - ☐ Cumulative patents or publications identified in Section 5.

**Section 10. Identification of Person(s) Making THIS INFORMATION DISCLOSURE STATEMENT**

The person making this statement is

*(check each applicable item)*

- (a) ☐ the inventor(s) who signs below

SIGNATURE OF INVENTOR

*(type name of inventor who is signing)*

- (b) ☐ an individual associated with the filing and prosecution of this application (37 CFR 1.56(c))

SIGNATURE OF INVENTOR

*(type name of inventor who is signing)*

- (c) ☒ the attorney who signs below on the basis of the information:

*(check each applicable item)*

- ☐ supplied by the inventor(s).  
☐ supplied by an individual associated with the filing and prosecution of this application. (37 CFR 1.56(c))  
☒ in the attorney's file.

SIGNATURE OF ATTORNEY

Elie H. Gendloff

*(type or print name of attorney)*

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